

RULE

**Department of Insurance
Office of the Commissioner**

**Military Personnel Automobile Liability Insurance
Premium Discount and Insurer Rebate Program
(LAC 37:XIII.Chapter 95)**

In accordance with the provisions of 49:950 et seq. of the Administrative Procedure Act the Commissioner of Insurance hereby adopts Regulation 81 to implement a military personnel premium discount and insurer rebate program. Adoption of the proposed regulation is authorized by Acts 2004, No. 770.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 95. Regulation 81• Military Personnel
Automobile Liability Insurance Premium
Discount and Insurer Rebate Program**

§9501. Authority

A. This regulation is adopted pursuant to R.S. 22:3 and 22:1425.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005).

§9503. Purpose

A. The purpose of this regulation is to implement the provision of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, which created an insurance premium discount program for active military personnel stationed in Louisiana. The new law requires the commissioner to adopt a regulation to implement the discount program and to develop procedures for insurers to follow to obtain a rebate of the discount provided to qualified military personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005).

§9505. Scope and Applicability

A. This regulation applies to all motor vehicle insurers authorized to engage in the business of writing automobile liability insurance in this state. It is also applicable to any automobile liability insurance policy purchased in this state from an authorized insurer by active military personnel based in Louisiana to cover motor vehicles owned by such military personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005).

§9507. Severability

A. If any Section or provision of this regulation is held invalid, such invalidity shall not affect other Sections of provisions which can be given effect without the invalid Section or provision. For this purpose the Sections and provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005).

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Active Military Personnel• •

a. an individual who is based in this state and who is serving full-time:

- i. in the Army, Navy, Marine Corps or Air Force;
- or
- ii. as a member of the Reserve or National Guard;
- or
- iii. as a member of the Coast Guard.

b. *Active military personnel* who are deployed out-of-state or overseas whose spouse and dependents remain in this state shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation.

AMP• active military personnel.

Authorized Insurer• shall have the meaning found in R.S. 22:5(3).

Automobile Liability Insurance Policy• a policy acquired in this state, insuring not more than four motor vehicles of the types described in R.S. 22:636.1A(1)(a)-(b), with the exception that for the purposes of this regulation it shall also include coverage for motorcycles, which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:636.1A(2). It includes a renewal policy if at the time of renewal the named insured retains the status of *active military personnel* as defined above. Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:636.1A(1)(a)-(b).

Commissioner• the Commissioner of Insurance for the state of Louisiana.

Direct Written Premium• the premium charged by the insurer as consideration for automobile liability insurance coverage.

Insured• the individual who qualifies as *active military personnel* and includes the spouse and any dependents who are under the age of 18 or unmarried full-time students under the age of 24, of such individual.

Insurer• shall have the meaning found in R.S. 22:5(10).

LDOI• the Louisiana Department of Insurance.

Named Insured• the person identified as such on the policy.

State• the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005).

§9511. Premium Discount; Proof of Eligibility

A. On or after July 1, 2005, all authorized insurers shall grant a discount equal to 12.5 percent of the premium charged for an automobile liability insurance policy insuring a vehicle owned by an insured. The discount applies to new and renewal business effective July 1, 2005. The discount applied to new and renewal business effective July 1, 2006, shall be equal to 25 percent of the premium. For interim policy changes the discount mandated by this Subsection shall be applied on a pro-rata basis in the same manner as similar discount programs, such as good-student discounts, are applied by the insurer.

B. Prior to applying the premium discount mandated by R.S. 22:1425(A) an insurer shall obtain from the applicant proof of the following.

1. Proof of the applicant's status as active military personnel shall be in the form of a copy of the applicant's military identification card or a copy of his military orders.

2. Proof that the applicant is stationed at or assigned to a base located in Louisiana shall be in the form of a copy of the applicant's military orders.

3. If the applicant is a spouse or dependant of an AMP proof shall be in the form of a copy of the applicant's military identification card, a copy of the AMP's military orders, and if over the age of 18 proof of enrollment as a full-time student at an accredited college or university, or at a vocational, technical, vocational-technical or trade school or institute, or secondary school.

4. Proof that the vehicle for which insurance is being purchased is owned by an insured shall be in the form of a copy of the vehicle's title or registration papers.

5. Nothing in this Subsection shall preclude an insurer from requesting additional documentation or proof from an applicant to determine eligibility for the discount.

C. For renewals, proof may be in the form of an affidavit in lieu of the documentation listed in Subsection B. A sample affidavit is shown below.

Affidavit

The State of Louisiana
Parish of _____

BEFORE ME, the undersigned authority, on this day personally appeared _____, who, after being duly sworn, deposed and stated under oath the following:

I, the undersigned affiant, have previously established eligibility for the insurance premium discount program for active military personnel stationed in Louisiana. This eligibility was based on:

1. Proof of status as full-time active duty (copy of military ID or orders);
2. Proof of stationing in Louisiana, even if deployed elsewhere;
3. Proof of dependency, if a spouse or dependent; and
4. Proof of vehicle ownership (copy of title or registration).

By signing below, I attest that I continue to meet the aforementioned eligibility requirements.

Signed this _____ day of _____, 20__.

Affiant

SUBSCRIBED and SWORN TO before me, the undersigned authority, on this the _____ day of _____, 20__.

Notary

Print Name

Address

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005).

§9513. Requests for Rebates; Documentation; Dispute Resolution

A. The rebate authorized by R.S. 22:1425 will be remitted to eligible insurers on an annual calendar year basis. Rebates will be calculated based upon direct written premium. An insurer is eligible to receive a rebate if it is an authorized insurer and it makes a timely request for a rebate.

B. Insurers seeking a rebate shall submit a request for rebate to the LDOI in accordance with the reporting schedule set forth in the reporting form(s) designed by the commissioner. Included with the request, insurers shall submit the information required to be maintained by §9515.B. A request that does not include the proof required by this regulation will be considered untimely.

C. If the request is approved, the commissioner will issue a warrant to the treasurer within 30 days of receipt.

D. The commissioner may disapprove a request for rebate, in whole or in part, if:

1. it is submitted late, unless the insurer can show good cause for the delay;
2. the report is incomplete or required documents are missing;
3. the request is excessive because a discount was given to a person who was not eligible to receive it.

E. If the commissioner disapproves a request for a rebate he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDOI. An insurer shall have 30 days from the date of the notice to dispute the disapproval. Any documents submitted in rebuttal to a disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal the commissioner shall enter an order either approving or disapproving the request for a rebate.

1. If the request is approved, the commissioner shall promptly issue a warrant to the treasurer. The treasurer shall remit the rebate within 30 days of receipt of the warrant.

2. If the request is disapproved, notice shall be given in writing, by certified mail, return receipt requested. The insurer shall have 30 days from the date of receipt of the notice of disapproval to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 2005).

§9515. Recordkeeping; Annual Report

A. Any insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511.B;
2. a copy of the Declarations Page for each policy for which a rebate is sought.

B. The annual report shall be made on a form(s) designed by the commissioner. The report shall include the following information for automobile liability insurance coverage issued to an insured:

1. a detailed listing of all policies for which a rebate is sought. The listing shall include, at a minimum:

- a. the policy number of each policy;
- b. the effective date of the policy;
- c. the term of the policy;
- d. the named insured on the policy;
- e. the gross direct written premium prior to application of the discount;
- f. the net direct written premium following application of the discount; and
- g. the dollar value of the discount applied to the policy;

2. the total number of policies written on active military personnel;

3. the total gross direct written premium prior to application of the discount;

4. the total net direct written premium following application of the discount;

5. the total end-of-year rebate sought.

C. The record required by this Section may be kept in electronic or written form. It shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the discount has been applied. Upon request, the insurer shall produce such record for examination by the commissioner or any person acting on behalf of the commissioner.

D. The initial annual report shall cover the calendar year ending December 31, 2005 and shall be filed on or before March 1, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 2005).

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. If an insurer is examined or audited by the commissioner and it is determined that the insurer received a rebate in excess of the amount actually due and owing, then the commissioner shall have authority to order the insurer to refund the overpayment to the treasurer. The commissioner shall promptly notify the treasurer of his determination and provide him with a copy of his order.

B. The treasurer shall have standing to institute legal proceedings to collect the overpayment and any such proceedings shall be brought in the Nineteenth Judicial District Court. The commissioner's order shall be prima facie proof of the amount due and owing. If legal proceedings are instituted, the treasurer shall be entitled to an additional 20 percent of the amount found to be due for the cost of collection.

C. An insurer's failure or refusal to refund an overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the overpayment or \$2,500, whichever is more, or both. The insurer shall have 30 days from the date of receipt of the notice of the commissioner's proposed action to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

D. No insurer shall be allowed to withdraw from the state or have its certificate of authority canceled if it has outstanding overpayments.

E. Nothing in this regulation shall be construed as a limitation on any powers or duties otherwise vested in the commissioner by operation of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 2005).

§9519. Effective Date; Implementation

A. This regulation shall take effect on March 20, 2005. Insurers shall take steps to timely implement the discount program so that it is available for all new and renewal business effective July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 2005).

J. Robert Wooley
Commissioner

0503#031

RULE

Department of Natural Resources Office of Conservation

Hazardous Liquids Pipeline Safety (LAC 33:V.Chapters 301-304)

The Louisiana Office of Conservation amends LAC 33:V.301 et seq. in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. These Rules amend the minimum pipeline safety requirements for hazardous liquids pipelines.

There will be negligible cost to directly affected persons or hazardous liquids pipeline operators. Benefits will be realized by persons living and working near hazardous liquids pipelines through safer construction and operation standards imposed by the Rule amendments. Moreover, Louisiana presently receives federal funds and pipeline inspection fees to administer the Hazardous Liquids Pipeline Safety Program. Failure to amend the Louisiana Rules to make them consistent with federal regulations would cause the state to lose federal funding.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline [49 CFR Part 195]

Subchapter A. General [Subpart A]

§30105. Definitions [49 CFR 195.2]

A. ...

Exposed Pipeline• repealed.

Exposed Underwater Pipeline• an underwater pipeline where the top of the pipe protrudes above the underwater natural bottom (as determined by recognized and generally accepted practices) in waters less than 15 feet (4.6 meters) deep, as measured from mean low water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1378(A)(8)(a)(v).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 1:145 (February 1975), amended LR 3:48 (January 1977), LR 3:497 (December 1977), amended by the Department of Employment and Training, Office of Workers' Compensation, Second Injury Board, LR 17:179 (February 1991), amended by Department of Labor, Office of Workers' Compensation, Second Injury Board, LR 32:92 (January 2006).

John Warner Smith
Secretary

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RULE

Department of Insurance Office of the Commissioner

Regulation 81—Military Personnel—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program (LAC 37:XIII.Chapter 95)

Under the authority of the Louisiana Insurance Code, R.S. 22:1, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and specifically R.S. 49:953.(B), the Louisiana Department of Insurance (LDI), pursuant to R.S. 22:1425, amends Regulation 81 to implement changes to the premium discount program for active military personnel based in Louisiana, and to establish an insurer premium tax credit program for those insurers who properly provide the automobile liability insurance premium discount to active military personnel based in Louisiana, and to establish eligibility criteria, and to publish an approved "Louisiana Application For Military Discount" form as the documentary proof required for a person to verify eligibility for the discount, and to provide for the procedure whereby participating insurers can apply for and obtain a tax credit against the payment of premium taxes levied pursuant to R.S. 22:1061 and 1065, and to provide for other related matters as per the mandates of R.S. 22:1425. This action complies with the statutory law administered by the LDI. The amendment to Regulation 81 is authorized by Act 408 of the 2005 Regular Legislative Session.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 95. Regulation 81—Military Personnel Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit Program

§9503. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:1061 and 1065 for the amount of the military discount

provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for the insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9505. Scope and Applicability

A. This regulation applies to all motor vehicle insurers authorized to engage in the business of writing personal automobile liability insurance in this state. It is also applicable to any personal automobile liability insurance policy purchased in this state from an authorized insurer by active military personnel based in Louisiana to cover personal motor vehicles owned and/or insured by such active military personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise:

Active Military Personnel—

a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of

- i. the Army, Navy, Marine Corps or Air Force; or
- ii. the Reserve or National Guard; or
- iii. the Coast Guard.

* * *

Automobile Liability Insurance Policy—a policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:636.1.A.(1)(a)-(b), with the exception that for the purposes of this regulation, it shall also include coverage for motorcycles, which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:636.1.A.(2). It includes a renewal policy if, at the time of the renewal, the named insured retains the status of *active military personnel* as defined above. Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:636.1.A.(1)(a)-(b).

* * *

Insured—the individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9511. Premium Discount; Proof of Eligibility

A. ...

B. The initial obligation to demonstrate eligibility for the premium discount rests with the applicant/AMP. Thus, prior to the insurer applying the premium discount mandated by R.S. 22:1425.A, the applicant/AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the Louisiana Department of Insurance (LDOI).

C. An insurer who obtains from an applicant/AMP a properly executed Louisiana Application for Military Discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the applicant/AMP provided false or fraudulent information on the Louisiana Application for Military Discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the applicant/AMP to the LDOI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the applicant/AMP and shall be attested to by the AMP's unit commander or the military officer authorized to administer oaths to the AMP and delivered to the insurer. The insurer is required to maintain the original and all subsequent renewals on file for inspection, verification and audit by the LDOI to ensure that the applicant/AMP is entitled to the premium discount mandated by R.S. 22:1425.A.

F. Active military personnel who is deployed out-of-state or overseas and who is:

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1425 and §9515 of this regulation.

G. If single or married AMP are deployed out-of-state or overseas, the insurer is authorized to accept the Louisiana Application for Military Discount if it is properly filled out by any one of the persons who is in a filial relationship to the AMP, to wit: spouse, mother, or father, or any brother, sister, aunt or uncle who has attained the age of majority. The Louisiana Application for Military Discount must still be attested to by the AMP's unit commander or the military officer authorized to administer oaths to AMP.

H. Although it is the obligation of the applicant/AMP to demonstrate eligibility for the premium discount, the insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an applicant/AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the applicant/AMP.

I. At each renewal AMP shall be required to re-execute the Louisiana Application for Military Discount in all respects as required by Regulation 81.

J. The Louisiana Application for Military Discount that must be properly executed by the applicant and/or AMP is set forth in §9519, Louisiana Application for Military Discount—Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006).

§9513. Requests for Tax Credit; Documentation; Dispute Resolution

A. The tax credit authorized by R.S. 22:1425(A), as amended, will be requested by the eligible insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:1061 and 1065 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDOI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:1061 and 1065 as set forth in the reporting form(s) designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttal presumption in favor of the insurer that the insurer is entitled to the tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

D. The commissioner may disapprove a tax credit either in whole to the extent that the entire premium tax filing is defective, untimely or improperly documented, or in part to the extent that one portion of the premium tax filing is defective, untimely or improper, but the other portion of the premium tax filing is in compliance with §9513 of this regulation. The commissioner shall use the following criteria with regard to the disapproval, in whole or in part, of a premium tax filing, to wit:

1. the premium tax filing is submitted late, unless the insurer can show good cause for the delay;

2. the premium tax filing is incomplete or required documents are missing;

3. the premium tax filing is excessive because a military discount was given to a person who was not eligible to receive said military discount.

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDOI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30 day period the insurer can demonstrate, in writing to the commissioner, good cause

for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60 day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:1061 and 1065.

1. If the tax credit is approved, in whole or in part, the commissioner shall grant to the insurer the amount of the tax credit so approved by the commissioner.

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. The insurer shall have 30 days from the date of receipt of the commissioner's order of disapproval to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:95 (January 2006).

§9515. Recordkeeping; Annual Report

A. Any insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511 of this regulation.

2. a copy of the Declarations Page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDOI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDOI in either an electronic format as per R.S. 22:2.1 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

- a. the policy number of each policy;
- b. the effective date of the policy;
- c. the term of the policy;
- d. the gross direct written premium prior to application of the military discount;
- e. the net direct written premium following application of the military discount; and
- f. the dollar value of the military discount applied to the policy.

2. The total number of policies written on active military personnel.

3. The total gross direct written premium prior to application of the military discount.

4. The total net direct written premium following application of the military discount.

5. The total end-of-year tax credit sought relative to the military discount.

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential and are exempt from the Public Records Act found at R.S. 44:4.

D. The initial tax credit filing made by the insurer shall cover the calendar year ending December 31, 2005 and shall be filed on or before March 1, 2006, and thereafter for each subsequent calendar year ending December 31 and filed on or before March 1 thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:96 (January 2006).

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. If an insurer is examined or audited by the commissioner and it is determined that the insurer received a tax credit in excess of the amount actually due and owing, then the commissioner shall have authority to order the insurer to refund the overpayment to the commissioner. The commissioner shall promptly notify his staff of his determination and provide his staff with a copy of his order.

B. The commissioner shall have standing to institute legal proceedings to collect the amount of any tax credit overpayment and any such proceedings shall be brought in the Nineteenth Judicial District Court. The commissioner's order shall be prima facie proof of the amount due and owing. If legal proceedings are instituted, the commissioner shall be entitled to an additional 20 percent of the amount of the tax credit overpayment found to be due and owing for the cost of collection.

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or \$2,500, whichever is more, or both. The insurer shall have 30 days from the date of receipt of the notice of the commissioner's proposed action to request an adjudicatory hearing as provided for by Part XXIX of Title 22 of the Louisiana Revised Statutes.

D. No insurer shall be allowed to withdraw from the state or have its certificate of authority canceled if it has outstanding tax credit overpayments.

E. Nothing in this regulation shall be construed as a limitation on any powers or duties otherwise vested in the commissioner by operation of law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:96 (January 2006).

LOUISIANA APPLICATION FOR MILITARY DISCOUNT

NAME OF INSURANCE COMPANY:

POLICY NO. or APPLICATION NO.:

READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. If you have any questions about this "Louisiana Application For Military Discount" form ask your agent for an explanation or contact the Louisiana Department of Insurance at (800) 259-5300 or (225) 342-5900. You must complete all sections of this "Louisiana Application For Military Discount" form. If a section is not applicable enter "N/A."

Full Name of Active

Military Personnel: _____

Date: _____

Date of Birth: _____

Home Phone: _____

Home Address: _____

Name of Spouse: _____

Spouse Date of Birth: _____

Name and Date of Birth

of Dependents: _____

Year, Make, Model

& VIN of Car(s): _____

Branch of Service: _____

Rank: _____

Name of Unit: _____

Unit Commander: _____

Unit Address: _____

Unit Phone: _____

Order No: _____

Date of Order: _____

Active Duty Station: _____

Military Job: _____

The undersigned hereby certifies that he/she is on active duty and permanently based in Louisiana and qualifies as "active military personnel" ("AMP") as defined by R.S. 22:1425 and Regulation 81, and is eligible for the military discount set forth in R.S. 22:1425 for personal automobile liability insurance policy. The AMP further certifies that the information provided in this "Louisiana Application For Military Discount" form is true and correct and that he/she will promptly notify his/her automobile insurer of any change in the above information. The AMP acknowledges that any false, fraudulent or misleading statement may subject him/her to civil and criminal penalties, including those penalties set forth in R.S. 22:1243, and any applicable provisions of Title 14, the Louisiana Criminal Code.

Signature of Active Military Personnel ("AMP")

Signature of Commanding Officer or
Military Officer Authorized to Administer Oaths

Print Name of Active Military Personnel

Print Name and Title of Commanding Officer or
Military Officer Authorized to Administer Oaths

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:97 (January 2006).

§9521. Effective Date; Implementation

A. This regulation, as amended, shall take effect on August 8, 2005. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective July 1, 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and R.S. 22:1425.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:98 (January 2006).

J. Robert Wooley
Commissioner

0601#090

RULE

**Department of Health and Hospitals
Office of Public Health**

**Tuberculosis Control Program
(LAC 51:II.503)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of Public Health, pursuant to the authority in R.S. 40:5, and based on the amendment and reenactment of R.S. 40:1156, amends Title 51, Part II, Chapter 5 providing for mandatory tuberculosis testing of certain individuals who are employees, volunteers or patients in certain medical and residential facilities. The Rule changes the title of Chapter 5 from Health Examinations of Employees, Volunteers and Patients at Day Care Centers and Residential Facilities to Health Examinations for Employees, Volunteers and Patients at Certain Medical and Residential Facilities. This title change is consistent with the removal of Day Care Center employees and volunteers from the mandatory tuberculosis testing requirement in June 2002 and the Rule changes as follows. The second Rule change adds to those whose testing for tuberculosis is mandatory the employees and volunteers working in direct patient care positions in the parish health units and out-patient health care facilities of the Department of Health and Hospitals, Office of Public Health.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

**Chapter 5. Health Examinations for Employees,
Volunteers and Patients at Certain
Medical and Residential Facilities**

§503. Mandatory Tuberculosis Testing

A. All persons prior to or at the time of employment at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the

field, or any person prior to or at the time of commencing volunteer work involving direct patient care at any medical or 24-hour residential facility requiring licensing by the Department of Health and Hospitals or at any Department of Health and Hospitals Office of Public Health parish health unit or out-patient health care facility, who are involved in direct patient care or client visits in the field, shall be free of tuberculosis in a communicable state as evidenced by either a:

1. negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method;
2. normal chest x-ray, if the skin test is positive; or
3. statement from a licensed physician certifying that the individual is non-infectious if the x-ray is other than normal. The individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

B. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, or a chest x-ray other than normal, in order to remain employed or continue work as a volunteer, shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

C. Any employee or volunteer at a medical or 24-hour residential facility required to be licensed by the Department of Health and Hospitals or at any Department of Health and Hospitals, Office of Public Health parish health unit or Department of Health and Hospitals, Office of Public Health out-patient health care facility who has a negative purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, in order to remain employed or continue work as a volunteer, shall be re-tested annually as long as the purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, remains negative. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin units strength, given by the Mantoux method, shall be referred to a physician and followed as indicated in §503.B.

D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of Louisiana Revised Statutes 40:4(A)(2) and Revised Statutes 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1219 (June 2002), amended LR 32:98 (January 2006)

Frederick P. Cerise, M.D., M.P.H.
Secretary

0601#072